

NOVEMBER 29, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WARNER BROS. RECORDS INC., a Delaware)
 corporation; VIRGIN RECORDS AMERICA, INC.,)
 a California corporation; UMG RECORDINGS,)
 INC., a Delaware corporation; SONY BMG MUSIC)
 ENTERTAINMENT, a Delaware general)
 partnership; PRIORITY RECORDS LLC, a)
 California limited liability company; MOTOWN)
 RECORD COMPANY, L.P., a California limited)
 partnership; LAFACE RECORDS LLC, a Delaware)
 limited liability company; LAVA RECORDS LLC,)
 a Delaware limited liability company;)
 INTERSCOPE RECORDS, a California general)
 partnership; ELEKTRA ENTERTAINMENT)
 GROUP INC., a Delaware corporation; CAPITOL)
 RECORDS, INC., a Delaware corporation;)
 CAROLINE RECORDS, INC., a New York)
 corporation; BMG MUSIC, a New York general)
 partnership; ATLANTIC RECORDING)
 CORPORATION, a Delaware corporation; and)
 ARISTA RECORDS LLC, a Delaware limited)
 liability company,)

No.:

07 C 6717

JUDGE COAR
MAGISTRATE JUDGE ASHMAN

Plaintiffs,

vs.

DOES 1 - 17,

Defendants.

EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

In support thereof, Plaintiffs represent as follows:

1. Plaintiffs, record companies who own the copyrights in the most popular sound recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a third party Internet Service Provider (“ISP”) to determine the true identities of Doe Defendants, who are being sued for direct copyright infringement.¹

2. As alleged in the complaint, the Doe Defendants, without authorization, used an online media distribution system to download Plaintiffs’ copyrighted works and/or distribute copyrighted works to the public. Although Plaintiffs do not know the true names of the Doe Defendants, Plaintiffs have identified each Defendant by a unique Internet Protocol (“IP”) address assigned to that Defendant on the date and time of that Defendant’s infringing activity.

3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that identify each Defendant’s true name, current (and permanent) addresses and telephone numbers, e-mail addresses, and Media Access Control (“MAC”) addresses. Without this information, Plaintiffs cannot identify the Doe Defendants or pursue their lawsuit to protect their copyrighted works from repeated infringement.

4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a Rule 26(f) conference where there are no known defendants with whom to confer.

¹ Because Plaintiffs do not yet know the Doe Defendants’ true identities, Plaintiffs are unable to personally serve them with a copy of this motion. Instead, Plaintiffs will serve the Clerk of Court pursuant to Fed. R. Civ. P. 5(b)(2)(C) (“If the person served has no known address, [service under Rule 5(a) is made by] leaving a copy with the clerk of the court.”) and will serve the Doe Defendants’ ISP with a copy of this motion. Additionally, if the Court grants this motion, Plaintiffs will ask the ISP to notify each of the Doe Defendants of the subpoena and provide them with an opportunity to object.

WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the foregoing requested discovery immediately.

Respectfully submitted,

WARNER BROS. RECORDS INC.; VIRGIN
RECORDS AMERICA, INC.; UMG
RECORDINGS, INC.; SONY BMG MUSIC
ENTERTAINMENT; PRIORITY RECORDS
LLC; MOTOWN RECORD COMPANY, L.P.;
LAFACE RECORDS LLC; LAVA RECORDS
LLC; INTERSCOPE RECORDS; ELEKTRA
ENTERTAINMENT GROUP INC.; CAPITOL
RECORDS, INC.; CAROLINE RECORDS, INC.;
BMG MUSIC; ATLANTIC RECORDING
CORPORATION; and ARISTA RECORDS LLC

DATED: November 29, 2007

By: /s/ Ann Marie Bredin
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PROPOSED ORDER

addresses and telephone numbers, e-mail addresses, and Media Access Control addresses for each Defendant. The subpoena may also seek all documents and electronically-stored information relating to the assignment of any IP address which NIU cannot link to a specific Doe Defendant. The disclosure of this information is ordered pursuant to 20 U.S.C. § 1232g(b)(2)(B).

IT IS FURTHER ORDERED THAT any information disclosed to Plaintiffs in response to the Rule 45 subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights under the Copyright Act.

DATED: _____

By: _____
United States District Judge